

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES L. MCCLELLAN,

Petitioner,

vs.

LAWRENCE MACK, Warden,

Respondent.

) CASE NO. 3:11CV1798
)
) JUDGE DAN AARON POLSTER
)
) MEMORANDUM OF OPINION
) AND ORDER
)
)
)

Before the Court is the Report and Recommendation of Magistrate Judge George J. Limbert ("R & R") (Doc. # 11). The R&R recommends that Petitioner James McClellan's 28 U.S.C. § 2254 petition for writ of habeas corpus (**Doc. # 1**) be dismissed for failure to prosecute. The deadline has long since passed for Petitioner to file written objections to the R&R. See 28 U.S.C. § 636(b)(1). Failure to file objections by the deadline constitutes a waiver of the right to obtain a de novo review of the R&R in the district court, United States v. Walters, 638 F.2d 947, 949 (6th Cir. 1981), and a waiver of the right to appeal. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), aff'd, 474 U.S. 140 (1985).

The Court has reviewed the Magistrate Judge's R&R and agrees that the petition should be dismissed without prejudice. Accordingly, the Court **ADOPTS** the Magistrate Judge's R&R (**Doc. # 11**) and **DISMISSES** the petition for writ of habeas corpus (**Doc. # 1**).

IT IS SO ORDERED.

/s/ Dan Aaron Polster September 25, 2012
Dan Aaron Polster
United States District Judge